

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Sonia Landino	Team: Squad #15	CCRB Case #: 201407889	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 08/01/2014 7:40 PM	Location of Incident: West 110th Street between 7th and 8th Avenues	Precinct: 28	18 Mo. SOL 2/1/2016	EO SOL 2/1/2016	
Date/Time CV Reported Mon, 08/04/2014 10:54 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 08/04/2014 10:54 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Victor Cardona	00446	934579	NARCBMN
2. SGT Michael Aliseo	00149	944316	NARCBMN
3. DT3 Milton Valerio	00692	943907	NARCBMN

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Milton Valerio	Abuse: Det. Milton Valerio facilitated the stop of § 87(2)(b)	
B.DT3 Victor Cardona	Abuse: Det. Victor Cardona frisked § 87(2)(b)	
C.SGT Michael Aliseo	Abuse: Sgt. Michael Aliseo frisked § 87(2)(b)	
D.SGT Michael Aliseo	Abuse: Sgt. Michael Aliseo searched § 87(2)(b)	
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		

Case Summary

On August 1, 2014, Det. Milton Valerio of Narcotics Bureau Manhattan North was assigned to an observation post on the rooftop of a five-story building in the vicinity of West 114th Street and Adam Clayton Powell Jr. Boulevard in Manhattan. At approximately 7 p.m., Det. Valerio made an observation involving § 87(2)(b) and relayed his observations to Sgt. Michael Alieso and Det. Victor Cardona of Narcotics Bureau Manhattan North, who were part of the field team in the incident area (**Allegation A**).

It is undisputed that Sgt. Alieso and Det. Cardona approached § 87(2)(b) from behind as he was crouched towards his boot and immediately handcuffed him. Det. Cardona then frisked § 87(2)(b) left boot, left sock, and waistband (**Allegation B**). § 87(2)(b) alleged that Sgt. Alieso frisked and searched his left sock, left boot, and both of his front pants pockets (**Allegations C and D**). After the negative frisk and search, Det. Cardona uncuffed § 87(2)(b) and the officers attempted to explain to § 87(2)(b) why he was stopped. The officers did not take § 87(2)(b) information and released him with no summons.

Mediation, Civil, and Criminal Histories

- § 87(2)(b) accepted mediation when he filed the complaint via the CCRB's Intake phone line on August 4, 2014. On February 19, 2015, § 87(2)(b) Sgt. Alieso, and Det. Cardona reached an impasse during the mediation session and the case was transferred back to the Investigations Unit that same day (encl. A1-A2).
- As of May 12, 2015, § 87(2)(b) has not filed a Notice of Claim with the City of New York with regard to the incident (encl. 15D).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]

Officer and Civilian CCRB Histories

- Det. Valerio has been a member of the service for 8 years and there are no substantiated allegations against him. § 87(2)(g)
[REDACTED] § 87(2)(b)
(encl. 2A).
- Det. Cardona has been a member of the service for 10 years and there are no substantiated allegations against him. § 87(2)(g)
[REDACTED] § 87(2)(b)
(encl. 2B).
- Sgt. Alieso has been a member of the service for 7 years and there are no substantiated allegations against him. § 87(2)(b) (encl. 2C).
- This is the first CCRB complaint filed by § 87(2)(b) (encl. 2D).

Potential Issues

- § 87(2)(g)
[REDACTED]
[REDACTED]
 - In his initial phone statement he provided only three days after the incident, § 87(2)(b) was adamant that Sgt. Alieso and Det. Cardona never provided their names after he requested said information and he never mentioned being frisked and searched twice.

- In his sworn CCRB statement he provided seven months after the incident, § 87(2)(b) stated that he was frisked and searched two separate times and that the officers did provide their names and shield numbers to him multiple times.
- § 87(2)(g)
- § 87(2)(g)

Findings and Recommendations

Allegations Not Pleaded

- **Force:** During his initial phone statement, § 87(2)(b) alleged that while he was in the process of being handcuffed, Det. Cardona pinned him against a wall. In his sworn CCRB statement, § 87(2)(b) alleged that Det. Cardona pushed him against a wall while he was being handcuffed. During a subsequent phone conversation on April 6, 2015 (encl. 4H), § 87(2)(b) specified that he was only two inches away from a fence and that Det. Cardona did not forcefully push him and he did not sustain any injuries. § 87(2)(g)
- **Abuse of Authority:** In § 87(2)(b) initial phone statement, he alleged that Sgt. Alieso and Det. Cardona never provided their names when he requested their identifying information, yet he identified them by name when he filed the complaint. In his sworn CCRB statement, § 87(2)(b) clarified that the officers did provide their names and shield numbers multiple times.

Allegation A – Abuse of Authority: Det. Milton Valerio facilitated the stop of § 87(2)(b)

§ 87(2)(b) indicated that he left his home in the vicinity of § 87(2)(b) and walked towards Central Park along West 110th Street between 7th Avenue and 8th Avenue in Manhattan. § 87(2)(b) did not make any stops along the way and had no verbal or physical interactions with any individuals. § 87(2)(b) bent down to tie his shoe lace when he was stopped by Det. Cardona and Sgt. Alieso.

Det. Valerio stated that during his observation post on the rooftop of a five-story building in the vicinity of West 114th Street and Adam Clayton Powell Jr. Boulevard in Manhattan, he had observed an unidentified male riding a bicycle up and down the street while simultaneously making exchanges of currency with other unidentified individuals, which based on Det. Valerio's experience, he believed them to be drug transactions. The narcotics team stopped the individual on the bike and found nothing. Det. Valerio then later observed the unidentified male on the bicycle make a hand-to-hand exchange of an unidentified object with § 87(2)(b). Det. Valerio did not observe any currency being exchanged during this particular interaction. § 87(2)(b) then continued to walk southbound on Adam Clayton Powell Jr. Boulevard when he suddenly stopped to place the unidentified object inside his shoe. Upon observing this action, Det. Valerio radioed his observations of § 87(2)(b) to Sgt. Alieso and Det. Cardona in order for them to stop § 87(2)(b). Det. Valerio indicated that the male on the bike was arrested later that night by his narcotics team. Det. Valerio had no memo book entries concerning his observation of § 87(2)(b).

Sgt. Alieso and Det. Cardona § 87(2)(g)

§ 87(2)(b) indicated that Det. Valerio observed § 87(2)(b) with a crack pipe in his hand and that he attempted to conceal something in his shoe. Both officers had entries in their memo books pertaining to the observation and at no time indicated that Det. Valerio saw a hand to hand transaction. Furthermore, neither officer observed a crack pipe in § 87(2)(b) hand upon approach.

It is undisputed by all accounts that § 87(2)(b) was observed reaching into his boot. § 87(2)(g)

§ 87(2)(b). Additionally, the accounts of § 87(2)(b) and the officers were obtained seven months or more after the incident date. § 87(2)(g)

Allegation B – Abuse of Authority: Det. Victor Cardona frisked § 87(2)(b)

Allegation C – Abuse of Authority: Sgt. Michael Alieso frisked § 87(2)(b)

Allegation D – Abuse of Authority: Sgt. Michael Alieso searched § 87(2)(b)

Although § 87(2)(b) alleged that it was Sgt. Alieso who frisked and searched him during the incident, Det. Cardona admitted that he was the officer who had frisked and potentially searched § 87(2)(b) § 87(2)(b) had alleged that his two front pant pockets, his left boot, and his left sock were frisked and searched. He also stated that his two front pant pockets were searched a second time after he gave the officers consent to do so.

Det. Cardona indicated he and Sgt. Alieso received radio communication from Det. Valerio, who observed § 87(2)(b) holding a crack pipe in one of his hands while making hand movements towards his mouth and then to his boot area. When Det. Cardona first observed § 87(2)(b) from within the unmarked RMP, he saw § 87(2)(b) crouched down on the ground while making hand movements around his boot area. Det. Cardona did not observe any bulges on § 87(2)(b) clothing during his initial observation. After approaching § 87(2)(b) and handcuffing him for safety reasons, Det. Cardona searched § 87(2)(b) boot that he had kicked off. Det. Cardona did not find anything inside § 87(2)(b) boot and did not observe any bulges on § 87(2)(b) sock. After conducting the frisk and search of § 87(2)(b) boot area, Det. Cardona observed an unidentified bulge in one of § 87(2)(b) front pant pockets, prompting him to frisk § 87(2)(b) waistband area. Det. Cardona was unable to describe the shape of the bulge, but believed the bulge could have been a weapon. Ultimately, the bulge was identified as a wallet, but Det. Cardona could not recall if it was him or Sgt. Alieso that had taken the wallet out of § 87(2)(b) pocket.

An officer may frisk an individual if he has a particularized reasonable suspicion that the suspect is armed and dangerous. People v. Forrest, 77 A.D.3d 511 (2010) (encl. 1N). Suspicion that an individual has engaged in a drug transaction is an insufficient basis for a frisk. People v. Brown, 204 A.D.2d 994 (1994) (encl. 1O).

Det. Cardona and Sgt. Alieso suspected § 87(2)(b) of attempting to conceal narcotics. Neither officer observed any bulges on his person upon approach prior to frisking his sock and searching his boot.

After finding no drug paraphernalia inside § 87(2)(b) boot, Det. Cardona and Sgt. Alieso observed a bulge in one of § 87(2)(b) front pant pockets. Det. Cardona indicated that the bulge

could have been a weapon; he could not describe the shape of the bulge or the type of weapon he suspected may be concealed in § 87(2)(b) pocket. The officers acknowledged that the item was removed from the pocket but could not recall which of the officers took this action and they found a wallet.

§ 87(2)(g)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

Pod: 15

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____

Title/Signature

Print

Date